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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,725	07/28/2003	Thorsten Krawinkel	tesa 1611-WCG	6814

27386 7590 10/12/2006

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EXAMINER

ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 10/12/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/628,725
Filing Date: July 28, 2003
Appellant(s): KRAWINKEL, THORSTEN

Willian C. Gerstenzang
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 4, 2006 appealing from the Office action mailed January 17, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: For the rejection of the claims the Examiner also relies on a state of the art reference which is a passage from an Encyclopedia in an attempt to prove a particular issue.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,004,665

Luhmann et al

12-1999

"Butadiene Polymers", Concise Encyclopedia of Polymer Science and Engineering, JI Kroschwitz, Editor, 1990, pages 97-98.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

A) Claims 1-16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Luhmann et al. The reference discloses (Note particularly the Abstract, Col 1, lines 3-15, Col 3, line 42- Col 4, line 7, Col 4, lines 13-20, lines 24-32, line 57-Col 5, line 11, lines 31-61, claims 1-9) a genus of stretch release adhesive tapes (which for purposes of dependent claims 13-16 are inherently believed to be structures which are equivalent to the claimed adhesive "sheet strips") wherein the preferred adhesive genus of compositions of choice is (Col 3, lines 42-64) a block copolymer employing vinylaromatic compounds (A blocks), preferably styrene, and center compounds (D blocks) formed by polymerization of 1,3 dienes, preferably butadiene and/or isoprene. The resultant block copolymers may contain identical or different center blocks, which can be selectively hydrogenated (Col 3, lines 49-50) if desired. Note particularly that the reference teaches 1,3 dienes such as butadiene can be selectively hydrogenated and also note as evidence of the state of the art the teachings at pages 97-98 of the Concise Encyclopedia of Polymer Science and Engineering by Kroschwitz. The reference teaches that the polymer microstructure of butadiene will form a variety of polymer structures such

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as the vinyl or 1,2 type butadiene as appellant claims as suitable to be a midblock in their genus of block copolymer compositions, thereby inherently rendering Luhmann et al as an anticipation of the independent claim, since 1,2 butadiene must necessarily be present in at least some amount when butadiene is present. Finally, it must also be noted that even if other moieties besides the fraction of 1,2-linked diene which is selectively hydrogenated are present in the adhesive composition this fact is simply irrelevant in view of the fact that all of his claims are open ended.

With respect to the dependent claims, note that Luhmann et al teaches such embodiments as the various weight percent ranges such as are set forth in claims 2-4 for styrene, the presence of tackifiers (claim 11) and the functionalization of block copolymers by maleic anhydride (claim 7). Additionally, as noted above the reference teaches a broad genus of stretch releasable tapes which can include foam layer(s) and the like, which is essentially all that is additionally required to disclose the "sheet strip" claims 13-16. As to any other parameters that have not been either expressly or inherently disclosed, these are each believed to be obvious optimizations to one of ordinary skill in the absence of unexpected results which have not been disclosed by appellant.

B) Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Luhmann et al. The reference is again relied upon as set forth above, and although styrene-butadiene-butylene-styrene block copolymers are not expressly taught as being used as the adhesive composition of choice, it is believed that the teachings of the reference at Col 4, lines 24-31, particularly at lines 29-31

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where it is taught that "polyisobutylenes, etc" can replace up to about 50% of the vinylaromatic-containing block copolymers, put this composition well within the grasp of one of ordinary skill as an obvious selection of choice for a block copolymer.

(10) Response to Argument

The Examiner has very little to add to his stated positions of record. Appellant argues throughout his Brief (e.g. pages 4-5) that his product is "selectively hydrogenated", but the Examiner can again only note that 1) so are multiple embodiments of Luhmann et al (i.e. see again Col 3, lines 49-51), and 2) appellants claims are all open ended (he does not use "comprising" language, but this is clearly his intent). As to the obviousness only rejection of claim 17 the Examiner again repeats his contention that the previously cited language, "polyisobutylenes, etc" is believed to clearly encompass for purposes of obviousness the claimed SBBS polymers, and accordingly appellant's traversal of this ground of rejection must also fail.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

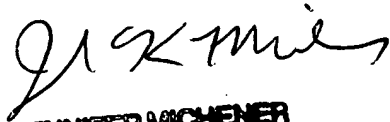
Respectfully submitted,


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